S.B.CIVIL WRIT PETITION NO.1338/2006

Kamla @ Kavita
v.
State of Rajasthan & Ors.

Date of Order :: 13th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Arjun Purohit, for the petitioner.
Mr. B.L.Tiwari, Deputy Government Advocate.

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By this petition for writ the petitioner, a minor girl of 14 years, through her brother Shri Sanjay Kumar Saroj, has claimed to finalise her pension case and also to pay other death-cum-retiral benefits being daughter of a deceased government servant.

In brief, facts of the case are that Shri Ramdulare, while holding the post of Ferroman with respondents, died on 4.11.2004 leaving behind her minor daughter (petitioner) and a son Shri Sanjay Kumar. Shri Ramdulare during his lifetime nominated the petitioner to receive pension and gratuity in the event of his death before acquiring the age of superannuation. The respondents denied disbursement of pension and its arrears to the petitioner as she failed to submit guardianship certificate. On the same count the respondents also denied for payment of Provident Fund to the petitioner, hence this petition for writ is preferred.

A reply to the writ petition is filed reiterating the reason for denial of payment of pension and provident fund to the petitioner that she failed to submit guardianship certificate.

It is not a fact disputed between the parties that the petitioner is daughter of late Shri Ramdulare, she was nominated for receiving pension and other death-cum-post retiral benefits by Shri Ramdulare, Shri Sanjay Kumar Saroj is real brother of the petitioner and the appointment to Shri Sanjay Kumar Saroj has already been given on compassionate grounds being ward of a deceased government servant. What it appears that the respondents are denying payment of pensionary benefits and the provident fund to the petitioner only with a view to protect her rights being minor but at the same time it is also true that Shri Sanjay Kumar Saroj being elder brother of the petitioner is required to have some assistance to support his sister i.e. the petitioner.

Looking to all the facts and circumstances of the case and with view to protect rights of the petitioner, I consider it appropriate to direct the respondents (1)to ensure the payment of provident fund to the petitioner by depositing the same in a fixed deposit in favour of the petitioner for a period of six years; (2)the petitioner become entitled for

getting pension from the date of death of Shri Ramdulare i.e. 4.11.2004. The respondents shall make payment of arrears of pension i.e. from 4.11.2004 to 31.12.2006 by keeping the amount concerned in a fixed deposit for a term of six years in favour of the petitioner; and (3)the respondents shall make the payment of 50% of the amount of pension from the month of January, 2007 to Shri Sanjay Kumar Saroj who is brother of the petitioner uptil the petitioner acquires majority. The remaining 50% amount of the pension shall be deposited by the respondents in a recurring account in accordance with small saving schemes framed by Government of Rajasthan for a period of six years. The petitioner shall be entitled to draw all the amount aforesaid on acquiring majority.

With the directions above this petition for writ stands disposed of.

(GOVIND MATHUR),J.

kkm/ps.